

**MINUTES OF PUBLIC MEETING
FOR THE CORRECTIONS OFFICER RETIREMENT PLAN LOCAL BOARD
FOR THE SUPERIOR COURT**

A Public Meeting of the Corrections Officer Retirement Plan Local Board for the Superior Court was convened Tuesday, June 5, 2018 at 10:00 a.m., Conference Room 109, Arizona State Courts Building, 1501 West Washington Street, Phoenix, Arizona.

Board Members Present in Conference Room 109: Kevin Kluge, Chair; Rob Lubitz and Mark Smalley.

Board Member Present by Conference Call: Jason Hathcock and Danna Quinn

Also Present by Conference Call: Geralyn Aragon, Disability Applicant #13-01 and Randy Garo, Disability Applicant #14-01

Also Present in Conference Room 109: Hannah Auckland, Board Attorney; Annette Corallo, Board Secretary; Wanda Roberson, Recorder; Court Reporter, Ottmar & Associates; Alexis Cueto, Pinal County Member

Call to Order:

Approval of the Minutes:

May 8, 2018 – Public Meeting Minutes

MOTION: A motion to approve the minutes of the public meeting on May 8, 2018, was made by Rob Lubitz. Motion was seconded and passed unanimously; minutes stand approved. **CORP 2018-37**

Consideration of Disability Applications

A. #13-01, Geralyn Aragon – Annual Review of Records

The Board approved Application #13-01, from Geralyn Aragon, for Accidental Disability benefits on February 5, 2014. The Board has conducted annual reviews of this matter for the past three years and voted on all occasions to continue the Accidental Disability benefit and review the case in one year.

This matter is brought to the Board for an annual review of medical records. The applicant initialed the Waiver of Confidentiality provision, to allow discussion of the medical condition in open public meeting.

The applicant was asked to provide medical treatment records since April 1, 2017, to assist the Board in determining whether an independent medical re-evaluation of the applicant's condition is necessary.

Current medical records were received from the applicant and provided for the Board's review.

The applicant's earliest normal retirement date would have been July 8, 2022, when she would be at least 62 years of age and have attained 10 years of service.

The Chair asked Ms. Aragon if she had any surgeries pending. Ms. Aragon stated that her next surgery was scheduled for June 18, 2018 on her right Temporomandibular joint (TMJ). She also indicated that it was the same surgery doctors performed on her initially and that her injury has gotten worse.

Ms. Aragon's doctor informed her that she will eventually need a metal joint replacement because the right side of her jaw was damaged, and her joints are deteriorating. Ms. Aragon said the damage to the joint is causing migraines, jaw joint pain, and has forced her to be on a soft food and liquid diet. She went on to say that the pain puts her out for the entire day and is now causing pain in her right eye.

In response to a question from the Board Chair, the Board Secretary stated that Ms. Aragon's disability application was approved on the basis of an IME of her psychiatric condition.

Ms. Aragon stated she was diagnosed with having Post Traumatic Stress Disorder (PTSD) and was re-traumatized when she encountered the perpetrator, who was recently released. During the encounter the situation caused her to experience a terrible migraine and jaw pain.

Board member Jason Hathcock stated in review of the medical records provided he did not see any improvement regarding the disabling condition of PTSD.

The Board Chair suggested the Board discontinue further reviews based on the medical records and because it is only four years out from when the applicant would have qualified for normal retirement.

Board member Rob Lubitz stated that according to board policy a seven-year review would be required if the psychiatrist indicated there was little of or no possibility of improvement; a three-year review would be required if improvement was possible, and a one-year review would be required if improvement was possible. He stated he found nothing to suggest in the records that improvement is likely.

The Board Secretary stated that even though the Board did not ask about the possibility of improvement at the time of Ms. Aragon's IME, under section 5 of the IME report the doctor stated the applicant is currently and permanently unable to return to her occupation because of her mental condition.

MOTION: A motion to continue the Accidental Disability benefit for Applicant #13-01, Geralyn Aragon, and suspend further review of the case, was made by Rob Lubitz. Motion was seconded and passed unanimously. CORP 2018-37

B. #14-01, Randy Garo – Annual Review of Records

The Board approved Application #14-01, Randy Garo, for Ordinary Disability benefits on September 9, 2014. This matter is brought to the Board for an annual review of medical records. The applicant initialed the Waiver of Confidentiality provision, to allow discussion of the medical condition in open public meeting.

The applicant was previously asked to provide medical treatment records since February 1, 2017 to assist the Board in determining whether an independent medical re-evaluation of the applicant's condition is necessary. The applicant's medical records from Banner Heath were received on April 19, 2018. All records were provided for the Board's review.

The Board last reviewed Ms. Garo's medical records on March 7, 2017 and voted to continue the disability benefit and review the case in one year.

The Board established on March 7, 2017, that the disabled member's condition should be reevaluated in one year. The applicant's earliest normal retirement date would have been June 10, 2022, when she would attain 62 years of age and 10+ years of service.

The Board Chair asked Ms. Garo if she received all the documents the Board would be discussing, and she indicated that she had not received them, and further said she never has the records sent by the providers. The Board Chair also asked if Ms. Garo wanted to make a statement about her condition. Ms. Garo indicated that her condition is getting worse and her bones are painful. She said she is taking Lyrica daily for the pain of the nerve endings and the doctors are looking at neck surgery.

Board member Jason Hathcock stated that after reviewing the records he didn't see any evidence of improvement and noted that Ms. Garo is four years away from being eligible for retirement. The Board Chair and Board member Danna Quinn agreed.

MOTION: A motion to continue the Ordinary Disability benefit for Applicant #14-01, Randy Garo, and review of the case in one year, was made by Jason Hathcock.

The Board Chair called for any discussion. Board member Rob Lubitz stated that since retirement was four years away and according to the IME report the doctor believed improvement can only come through back surgery, yet no back surgery has been scheduled, he would suggest the benefit should continue, and further board review should be suspended. Ms. Garo confirmed that no back surgery is planned on advice of her doctors.

REVISED MOTION: A motion to continue the Ordinary Disability benefit for Applicant #14-01, Randy Garo, and suspend further review of the case, was made by Jason Hathcock. Motion was seconded and passed unanimously. **CORP 2018-38**

C. #15-01, Ruth K. Marblestone – Notice of Voluntary Termination

The Board approved Application #15-01, Ruth K. Marblestone, for Ordinary Disability benefits on December 7, 2015. The Board last reviewed her medical records on March 6, 2018 and voted

to refer her for an independent medical reevaluation. Staff subsequently worked with MCN to locate a provider and scheduled the reevaluation for May 31, 2018.

On May 22, 2018, Ms. Marblestone sent an email to the Board Secretary stating that she would not attend the scheduled reevaluation on May 31, 2018 and asking that the Board close her case. The Board Secretary wrote to Ms. Marblestone on May 24, 2018, to clarify her request that the Board “close my case.” Ms. Marblestone responded on May 27, 2018, and stated she is aware she is giving up the benefit and again asked that the Board close her case.

This applicant signed the confidentiality waiver to allow discussion of medical information in open session.

The applicant’s earliest normal retirement date would have been June 1, 2032, when she would attain 62 years of age and 10+ years of service.

The Board Attorney recommended that the Board Secretary write to the PSPRS to ask if they have experience with a disability recipient refusing to submit to reevaluation, and whether they have guidance on notification to the member about the terms of a suspension and eventual revocation of her disability benefits. A draft email to the PSPRS was provided.

The Board Chair questioned whether Ms. Marblestone, according to the statute, would be giving up her pension at retirement because of her refusal to submit to a medical reevaluation. The Board Secretary clarified that Ms. Marblestone must refuse the medical reevaluation for a year, during which her benefit is suspended, and if refusal continues for more than a year the benefit will be revoked, and she will no longer be eligible for retirement benefits of any kind.

MOTION: A motion to immediately suspend the Ordinary Disability benefit awarded to Ruth K. Marblestone on December 7, 2015, based on her refusal to submit to reevaluation, and to calendar this matter for a Board meeting in 2019 one year from the date of refusal (May 22, 2018) to consider whether to revoke Ms. Marblestone’s right to the pension, pending additional information from the Administrator’s office, was made by Mark Smalley. Motion was seconded and passed unanimously. CORP 2018-39

D. #17-03, Julian Vince Romero – Notice of Application Withdrawal

The Board received Application #17-03 from Julian Vince Romero for Ordinary Disability Retirement on December 11, 2017, based on sudden sensorineural hearing loss on August 26, 2017.

On January 9, 2018, the Board voted to refer Mr. Romero for an independent medical evaluation (IME). Mr. Romero was subsequently scheduled for an IME on April 26, 2018, with Dr. Joel Cohen, an otolaryngologist (ear, nose and throat specialist).

Mr. Romero first contacted the Board Secretary by email on April 27, 2018, to express concern about Dr. Cohen’s attitude and what he considered to be inappropriate comments. Initially Mr. Romero did not want to respond to the Board Secretary’s request for more information about his

experience with Dr. Cohen, but on May 3, 2018, he sent an email with details about his appointment.

Subsequently, but before the IME report was received, Mr. Romero contacted the Board Secretary to inquire about a refund of contributions if he decided to pursue that route. The Board Secretary responded with the amount. On May 14, 2018, Mr. Romero called the Board Secretary to advise he had decided to request a refund of his contributions and he was advised that doing so would make him ineligible for further consideration of his application for disability benefits, which would be a lifetime benefit if continuing eligibility was found. Mr. Romero indicated he now wanted to receive a lump sum payment to help facilitate his purchase of a home. Later that day he sent written notice that he wanted to withdraw his application for disability benefits. The PSPRS confirmed that his contributions were refunded on May 25, 2018.

The Board Chair asked if the IME report was received and the Board Secretary acknowledged that it had been received. The Board Secretary also stated that the contractor responsible for the doctor, Medical Consultants Network, was notified about the complaint.

MOTION: A motion to acknowledge that Applicant #17-03, Julian Vince Romero, received a refund of his CORP contributions on May 25, 2018, and in doing so withdrew his application for Ordinary Disability benefits from further consideration, was made by Danna Quinn. Motion was seconded and passed unanimously. CORP 2018-40

Decision on Request for Review of Pre-Existing Condition Finding

Alexis Cueto, a probation officer in Pinal County, submitted a request to appeal a pre-existing condition noted in her CORP physical exam.

The Board Attorney advised that discussion of this request should occur in a “modified” executive session, rather than a public portion of the meeting, since there is the potential to discuss confidential medical information without a confidentiality waiver from the member. The agenda noted the authorization for an executive session.

Rule D.4 governs Board consideration of employee comments on a finding of a pre-existing condition.

Ms. Cueto’s membership was effective September 20, 2010. She received a letter from the Board dated December 30, 2014, asking her to repeat her physical exam because an exam report had not been transmitted to the Board office and could not be retrieved by Concentra during an audit. She promptly complied with the Board’s request by having an exam on January 16, 2015, which noted anxiety as a pre-existing condition. Ms. Cueto was then advised via certified letter from the Board Chair dated March 18, 2015, that she had been identified as having a pre-existing condition. Her pending request disputes that condition was pre-existing on her hire date in 2010.

The Board Attorney advised that the Board can’t make a medical determination on whether Ms. Cueto’s condition was an issue in 2010 – only a doctor would be able to make that determination. The Board can ask her to provide her prior medical records so that those records are on file in the event she files an application for disability benefits. The Board Attorney further advised that

Arizona medical providers are supposed to maintain records for at least six years after the last date of services. The provider who saw Ms. Cueto should have information on the records from that practice (which appears to have closed sometime in 2015). Since Ms. Cueto is looking for records that are more than six years old, there is a chance the records are no longer available, but it will likely depend on how long after 2010 she treated with that provider. The Board Attorney recommended that the Board ask Ms. Cueto to contact the provider directly and either obtain any and all relevant medical records documenting her treatment, or she can get a signed/notarized statement from the provider stating that the records are no longer available and when the records were destroyed.

MOTION: A motion to enter a modified Executive Session, allowing Ms. Cueto to remain in the meeting to answer questions about her condition and for the Board to receive further legal advice was made by Rob Lubitz at 10:32 a.m. Motion was seconded and passed unanimously. **CORP 2018-41**

MOTION: A motion to return to open session was made by Mark Smalley at 10:45 a.m. Motion was seconded and passed unanimously. **CORP 2018-42**

MOTION: A motion to have the Board ask Ms. Cueto to contact the provider directly and either obtain all relevant medical records documenting her treatment or get a signed/notarized statement from the provider stating that the records are no longer available and when the records were destroyed, was made by Rob Lubitz. Motion was seconded and passed unanimously. **CORP 2018-43**

Update on CORP Tier 3:

Since the Board's last meeting:

- Updates to the Local Board database to capture the member's plan and contribution percentage have been completed.
- The suggestions and questions discussed at the last meeting were conveyed to PSPRS and their responses are provided.
- PSPRS provided the AOC enrollment forms for Tier 3. Copies were provided. The Board Secretary contacted Phil Coleman at PSPRS to suggest a different title for the form apparently intended for enrollment use for juvenile detention officers, to give clarity for county personnel responsible for enrolling officers. The Board Secretary suggests the Board discuss whether the current direction to the counties – to send the original enrollment form to the Local Board office, to be passed on to PSPRS – should be modified.
- Phil Coleman has continued to meet with county HR and Payroll personnel about the Tier 3 changes. Court staff in the largest counties have had the opportunity to participate in these meetings. The Board Secretary has asked Phil Coleman for confirmation that he will meet with staff in all 15 counties before July 1.
- The Board Secretary plans to set up at least two conference calls in June when court/county staff responsible for enrolling AOC officers can hear about Tier 3 implementation from Phil Coleman, unless the Board has different direction.

The Board Secretary is concerned that the Local Board office may not receive membership forms because the new forms indicate to mail the original completed forms directly to Public Safety. She

explained that if an officer only has 90 days to choose a plan, it will be important to have all the paperwork so there is no delay in processing.

Board member Danna Quinn was concerned that Phil Coleman has not met with all of the key people involved with processing the applications. She stated she was concerned about the detention staff with the mandatory defined contribution plan and the need to get the forms processed before the first payroll. She felt that what Phil Coleman was conveying in their meeting is that the officers can fill out the form when they come in to fill out their new hire paperwork and, in that way, it will be submitted on time, but she expressed concern that they would have not had time to provide the new hire with any information. With those officers being expected to choose a lifetime contribution rates, she is concerned there won't be sufficient time and information for them to understand their options.

The Board Secretary indicated that Phil Coleman said he planned to meet again with Maricopa County. She believes that Mr. Coleman met with the right individuals in the smaller counties.

The Board Chair asked Ms. Quinn about her concern about the timing of the forms. Ms. Quinn stated that she is not concerned about the 90-day Probation/Surveillance new hires because they will have access to all the information that is needed to make a sound decision, but it is the Detention Officers who will be forced to make a quick decision. Mrs. Quinn stated that it will have to be conveyed to new Detention Officers that if their election is not received in a timely manner then their election will be placed on a default rate. She suggested that an education packet or video specific to Detention Officers be created, and that it should state the default rate is 7% and the employer match is 5%.

Ms. Quinn also asked for clarification of a work-related disability in the defined contribution plan, specifically the indication that it will be offset by the defined contribution account balance. The Board Secretary confirmed that would be the case according to the material provided. Ms. Quinn asked the Board Secretary to research the statute to be certain of the offset.

Board member Jason Hathcock asked if Phil Coleman was able to answer any previous questions the Board had for him. Ms. Quinn said the answers were what they expected. The Board Secretary referred members to the provided copy of the questions raised at the last meeting and corresponding answers from the PSPRS.

Approval of Normal Retirement Benefits:

Seven applications for Normal Retirement benefits were submitted for the Board's approval pursuant to A.R.S. § 38-893 (D).

Motion to approve the payment of Normal Retirement benefits to the following applicants in about the following amounts, effective June 1, 2018:

| | |
|-----------------------------|-------------------|
| Pedro Corrales: | \$2,793.68 |
| Cesar O. Figueroa: | \$2,711.23 |
| Kathleen B. Frazier: | \$3,116.33 |
| Angela Jo Harper: | \$3,109.82 |

| | | |
|----------------------------|--------------------|---|
| Jennifer L. Manera: | \$4,416.90 | |
| Errol E. Pond: | \$3,678.69; | Reverse DROP Estimate: \$59,812.97 |
| Lynn D. Trimble: | \$2,330.38 | |

MOTION: A motion to approve the payment of Normal Retirement benefits to the following applicants in about the following amounts, effective June 1, 2018, was made by Mark Smalley. Motion was seconded and passed unanimously. CORP 2018-44

Acknowledgement of CORP Physical Exam Final Letters

The Chair noted for the record that physical examination report for Tina Lundquist was not received within 60 days of receipt of her membership application and a final letter requesting an examination was sent to her via certified mail on May 29, 2018.

Approval of Membership:

The Local Board may consider and vote on the approval of the following requests for membership or defer decision to a later date:

| | | |
|-----------------------------|----------|-----------|
| Bell, Joseph | Yavapai | 3/5/2018 |
| Call, Doreen | Maricopa | 5/7/2018 |
| Craine, Brittany L. | Maricopa | 5/7/2018 |
| Davis, Jermaine D. | Maricopa | 4/23/2018 |
| Del Rivero, Jennifer | Maricopa | 5/7/2018 |
| Flowers, Erin L. | Maricopa | 3/19/2018 |
| Ganzemiller, Alexander B. | Maricopa | 4/23/2018 |
| Gomez, Mauricio | Yuma | 5/7/2018 |
| Houser II, Larry D. | Maricopa | 4/9/2018 |
| Judy, Alec | Yavapai | 3/6/2018 |
| Lagunas Valenzuela, ReAnnon | Yuma | 2/5/2018 |
| Langdon, Shelby | Yavapai | 3/8/2018 |
| Law, Emily | Maricopa | 5/7/2018 |
| Lee, Michael A. | Maricopa | 5/7/2018 |
| Lopez, Ashley E. | Maricopa | 5/7/2018 |
| Lundquist, Tina | Coconino | 3/19/2018 |
| Madrid, Louis | Pinal | 4/9/2018 |
| Pizano, Melissa | Yuma | 5/7/2018 |
| Ryder, John | Navajo | 3/5/2018 |
| Salazar, Francisca | Maricopa | 5/7/2018 |
| Shahid, Umer B. | Maricopa | 5/7/2018 |
| Shaw, Bruce | Yavapai | 3/11/2018 |
| Thompson, Devin L. | Maricopa | 5/7/2018 |
| Urbieta, Lizbeth S. | Maricopa | 4/30/2018 |
| Vernon, Marisa | Maricopa | 5/7/2018 |
| Wilde, Sarah | Pima | 4/2/2018 |
| Williams, Nathaniel | Maricopa | 5/21/2018 |

MOTION: A motion to approve the 27 applicants listed on the agenda for this meeting for membership in CORP pursuant to A.R.S. §38-893.D and to note for the record that the physical examinations for Erin L. Flowers, Larry D. Houser II, Bruce Shaw and Sarah Wilde identified a physical or mental condition or injury that existed or occurred before their date of membership in the plan was made by Rob Lubitz. Motion was seconded and passed unanimously. CORP 2018-46

Future Agenda Items:

The Board Secretary indicated she has requested a membership audit list from the PSPRS and will proceed with the audit when the list is received.

Call to the Public:

No members of the public addressed the Board.

The meeting was adjourned at 11:11 a.m.

Transcribed June 5, 2018